



A FRAMEWORK FOR POLICE PREPAREDNESS FOR INDIGENOUS CRITICAL INCIDENTS

**INDIGENOUS POLICING BUREAU,
TRAFFIC SAFETY AND OPERATIONAL SUPPORT COMMAND**

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INTRODUCTION

Critical Policy The Ontario Provincial Police (OPP) is committed to safeguarding the individual rights enshrined within federal and provincial laws, inclusive of those specifically respecting the rights of Aboriginal persons of Canada as set out in the [Canadian Charter of Rights and Freedoms](#). The OPP recognizes that conflicts may arise as Indigenous communities and the various levels of government work to resolve outstanding issues associated with matters such as land claims, self-determination and Indigenous or treaty rights, which may include activities such as hunting, fishing and extraction on ancestral or traditional territories.

Preamble The Framework for Police Preparedness for Indigenous Critical Incidents (the Framework) provides a guideline for police response to conflict and has applicability to both Indigenous and non-Indigenous issue-related conflict. The Framework outlines a flexible response to each stage of the conflict cycle; pre, during and post. Its focus on negotiation and mediation applies to police-related matters during a conflict. The Framework is recognized as a best practice for police response to an [Indigenous critical incident](#) (ICI).

Critical incidents are often avoidable. The benefits of the Framework are maximized if put to use before an issue becomes a critical incident. Identifying, establishing and maintaining open and transparent relationships with all stakeholders are vital to maximize public safety.

It is the role of the OPP and its employees to make every effort prior to a [critical incident](#) to understand the issues and to protect the rights of all involved parties throughout the cycle of conflict. The policing objective is to preserve the peace, prevent offences and enforce the law in a manner that respects the rights of all involved parties.

Purpose The purpose of the document is to:

- promote an operationally sound, informed and flexible approach to resolving conflict and managing crises in a consistent manner;
- offer a framework that demonstrates accommodation and mutual respect of differences, positions and interests of involved Indigenous and non-Indigenous communities and the OPP; and
- promote and develop strategies that minimize the use of force to the fullest extent possible.

Definitions

**Aboriginal/
Aboriginal People** For the purposes of this document: a collective group recognized under the Canadian constitution (section 35(2) of the Constitution Act, 1982). The group includes Indians (commonly referred to as First Nations people or First Nations), Métis and Inuit. The term First Nation may also be used to replace Band or Indian Band in the name of a community (as defined by the federal [Indian Act](#)). The term First Nation Territory, when used, may refer to a reserve or to ancestral or traditional territory (as defined by the federal Indian Act).

**Indigenous
People** Indigenous peoples are inheritors and practitioners of unique cultures and ways of relating to people and the environment. They have retained social, cultural, economic and political characteristics that are distinct from those of the dominant societies in which they live.

Critical Incident As defined in Police Orders, Chapter 5, Major Incident Command.

Major Incident As defined in Police Orders, Chapter 5, Major Incident Command.

**Indigenous
Critical Incident
(ICI)** As defined in Police Orders, Chapter 5, Major Incident Command.

**Role of the
OPP** The OPP recognizes and respects the fundamental freedoms of opinion, expression and peaceful assembly enshrined in the [Canadian Charter of Rights and Freedoms](#). A safe and secure environment for all participants and communities



exercising these constitutionally protected rights is always a significant consideration.

Section 4(2) of the Police Services Act (PSA) states:

Adequate and effective police services must include, at a minimum, all of the following police services:

- *crime prevention;*
- *law enforcement;*
- *assistance to victims of crime;*
- *public order maintenance; and*
- *emergency response 1997, c. 8, s. 3.*

In addition, OPP employees have a statutory and common law duty to preserve the peace (PSA s. 42(1)(a)). The principles of peacekeeping are aimed at minimizing violence, keeping and restoring public order, maintaining neutrality, facilitating rights and establishing trusting relationships.

The OPP shall investigate and take appropriate action with respect to civil disobedience and other unlawful acts. The OPP shall use discretion and a carefully measured approach, employing only the level of force necessary to:

- ensure the safety of all citizens;
- enforce the law;
- enforce court orders/warrants;
- maintain/restore peace; and
- to provide order and security.

Uniqueness of Indigenous Occupation and Protests

Indigenous occupations, protests and demonstrations are often complex in nature and qualitatively different from single issue labour or political disputes. The OPP shall make every effort to foster awareness of historical and cultural factors that may contribute to the uniqueness and impact of Indigenous issues. These factors shall be considered when determining what police resources may be required to peacefully resolve such incidents.

Distinguishing factors may include, but are not limited to:

- historically difficult relations between police and Indigenous peoples and communities;
- division on issues within Indigenous communities;
- remoteness of sites and traditional territories;
- involvement of different parties, e.g. government, media or non-Indigenous third parties, making it difficult to communicate and negotiate policing issues with protesters/occupiers/demonstrators;
- strength of resolve and commitment to issues, causing protesters/occupiers/demonstrators to push back any attempt of force by police;
- duration of incidents spanning days, weeks or longer periods;
- intervention of federal and/or provincial governments with public policy and legal issues that are outside the authority of policing; and
- potential for solidarity response that may be national or international in scope.

Provincial Highway Blockade Strategy

When a demonstration occurs on or near a provincial highway, further information pertaining to the Provincial Highway Blockade Strategy can be obtained by contacting the Commander, Field Support Bureau (FSB).



ROLES AND RESOURCES

Regional and Detachment Commander	<u>Regional</u> and <u>detachment commanders</u> shall: • remain alert and sensitive to <u>Indigenous critical incidents</u> during any stage of the cycle: pre, during or post; and • provide report backs and updates regarding all Indigenous critical incidents and engage required resources through the chain of command.
Commander, FSB	The Commander, <u>FSB</u> shall oversee the <u>major critical incident commander</u> role.
Commander, Indigenous Policing Bureau	The Commander, Indigenous Policing Bureau shall: • ensure training on the application of the Framework; • remain current on Indigenous issues impacting Indigenous peoples and communities; • assist in facilitating communications during any Indigenous-related dispute, conflict or Indigenous critical incident; • be responsible for the creation and distribution of the annual framework report; • provide informed advice to OPP Executive and major critical incident commanders regarding issues impacting Indigenous peoples and communities; and • develop and maintain a network of contacts and partnerships to enhance communication and foster positive, trusting relationships within: • the OPP; • other police services including First Nation Police Services; and • Indigenous and non-Indigenous communities and leadership.
Manager, Corporate Communications	The Manager, Corporate Communications is responsible for working closely with the Indigenous Policing Bureau and, as a provincial resource, shall: • provide communication advice and expertise, as appropriate, during all Indigenous critical incidents; • support and assist with provision of communication products and services; and • foster communication opportunities to increase public and internal OPP awareness and understanding, and to enhance accountability and transparency during conflicts and critical incidents.
Major Critical Incident Commander	The available <u>major critical incident commander</u> or assigned <u>critical incident commander</u> is responsible for providing expertise in managing and resolving Indigenous critical incidents and shall: • take command and control of the incident; and • activate the OPP Integrated Response.
Provincial Liaison Team (PLT)	The Provincial Liaison Team is responsible for: • providing specialized support and assistance to establish and maintain open and transparent lines of communication with all stakeholders who may be affected, directly or indirectly by a <u>critical incident</u> or an <u>ICI</u>; • providing specialized support to build relationships of trust, mutual understanding and respect between police and all stakeholders; and • undertaking its responsibilities in keeping with the procedures and best practices documented in the PLT Standard Operating Procedures (SOP).

FRAMEWORK APPLICATION

Conflict Cycle	Conflicts cycle through recognized incident stages: pre-critical incident, critical incident and post-critical incident. This section provides an overview of signs,
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behaviours and cues that may be present at each stage and suggests resolution techniques to avoid, de-escalate or appropriately manage the situation. It is strongly recommended that the Framework be applied early in the pre-critical stage and continue throughout the post-critical stage.

**Pre-Critical
Incident Stage**

What to look for

- real or perceived inequities in privilege or power within the community or between the community and society;
- an initiative or event being planned that could lead to conflict;
- high probability that an ongoing initiative or event could lead to conflict or crisis;
- words and images used to describe an initiative or event that could generate negative emotions, dissension, disagreement, or conflict; and/or
- involved persons stating that if an initiative or event is not dealt with sensitively, a conflict or crisis will ensue.

What may be done

- be informed about issues of concern by participating in discussions with Indigenous peoples and communities, police services, other levels of leadership, etc.;
- remain informed of positions and impact of non-Indigenous stakeholders;
- consider the policing implications of the local issues identified;
- develop and display respect for all concerned by listening;
- always be honest: overt and consistent honesty is the best way to earn trust;
- build positive trusting relationships with members of all communities, First Nations police services and other agencies;
- be open, talk to all parties;
- contact elected and traditional leaders of the community if an issue arises that may precipitate a dispute or conflict;
- consult with community leaders on potentially conflicting issues using existing opportunities for dialogue;
- encourage people to come together around issues and activities where agreement exists;
- engage Provincial Liaison Team for guidance and support;
- make appropriate notifications through established chain of command;
- notify the major critical incident commander of circumstances that could indicate a pre-critical incident through the established chain of command;
- pre-identify community and agency representatives who can serve as resource persons or mediators; and
- review the local emergency plan to ensure it adequately addresses potential conflict situations, e.g. plan outlines diversion routes, identifies likely blockade locations.

**Critical Incident
Stage**

At this stage involved persons may have become increasingly frustrated that their issues have not been appropriately addressed. A range of possibilities exist as to how the critical incident may evolve—from a passive demonstration to one where all stakeholders may be significantly affected, e.g. blockade of transportation route.

What to look for

- involved persons expressing a perception that their issues of concern are not being satisfactorily addressed;
- comments about the incident increasing in frequency or intensity, indicating greater likelihood of crisis;
- positions being communicated becoming entrenched and polarized;



- involved persons becoming increasingly vocal, forceful and threatening;
- demands being made known directly to police or through the media;
- conciliatory efforts not effective given the stage of the incident;
- increasing media coverage of the incident with potential to further divide positions; and
- persons or agencies not directly involved in the critical incident taking public positions concerning the dispute.

What shall be done

- The Commander, FSB must consider assigning an available major critical incident commander or appropriate critical incident commander, in accordance with Police Orders, Chapter 5 - Major Incident Command, to be the lead incident commander for the duration of the critical incident. In such circumstances, the major critical incident commander or critical incident commander shall be responsible for overall command and control of the Integrated Response;
- ensure all parties to the critical incident have the opportunity to contribute to strategies for resolution. OPP employees will rely on established relationships for effective communication between themselves and persons involved in the critical incident as well as other members of the community;
- provide options that are transparent to the parties in conflict to promote a safe resolution. OPP employees shall state their position and interests clearly so as to be understood by all. This can potentially defuse a critical incident and lead to a safe resolution; and
- key messages may be developed at any stage of a critical incident to support consistent, clear messaging. Communication strategies and key messaging are included in Incident Command and Media Relations training.

What may be done

- establish the policing interest as it relates to the dispute at hand, e.g.
 - explain that the police intend to maintain an orderly flow of traffic while allowing participants to lawfully demonstrate; and
 - where possible attempt to re-route traffic in order to avoid confrontation and minimize impact.
- emphasize that negotiations will be used at every opportunity;
- acknowledge the existence of underlying factors within the critical incident;
- communicate to disputants that all demonstrators and other members of the public will be treated with dignity and respect - consider the values, traditions and interests of the affected communities;
- seek out common ground between all stakeholders and aspects of the dispute where agreement exists - take every opportunity to facilitate productive communication;
- establish with disputants a means by which information and progress will be communicated to media;
- consider the impact of decisions on the safety of police officers, demonstrators and other members of the public;
- respond to conflict with minimal use of force;
- explain that, if needed and possible, a cooling off period and its length will be jointly agreed to; and/or
- ensure OPP personnel are kept informed.

Post-Critical Incident Stage

What to look for

- emotional and physical exhaustion of participants;
- differing perceptions of the incident by those involved; and



- stakeholders wanting to reflect on what has occurred, discuss the lessons learned and identify peace-building actions.

What may be done

- operational debriefings to review and assess operations and seek lessons learned; and
- development and implementation of a strategy to restore relationships with both the Indigenous and non-Indigenous communities:
 - strategy should consider general objectives, responsibilities, potential activities to restore relationships and be adapted in practice to specific circumstances as necessary; and
 - resources, such as the Provincial Liaison Team, may be brought in to support development, implementation and assessment of the strategy.

APPENDIX 1: RELEVANT LEGISLATION

Constitution Act, 1982

Enacted as Schedule B to the Canada Act 1982 (U.K.) 1982, c. 11, which came into force on April 17, 1982.

Constitution Act, 1982, PART I - Canadian Charter of Rights and Freedoms, section 25 and section 2:

Aboriginal rights and freedoms not affected by Charter

25. The guarantee in this Charter of certain rights and freedoms shall not be construed so as to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada including
- (a) any rights or freedoms that have been recognized by the Royal Proclamation of October 7, 1763; and
 - (b) any rights or freedoms that now exist by way of land claims agreements or may be so acquired.

Fundamental freedoms

2. Everyone has the following fundamental freedoms:
- (a) freedom of conscience and religion;
 - (b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;
 - (c) freedom of peaceful assembly; and
 - (d) freedom of association.

Constitution Act, 1982, PART II - Rights of the Aboriginal Peoples of Canada, section 35(1),(2),(3),(4):

Recognition of existing aboriginal and treaty rights

35. (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

Definition of “aboriginal peoples of Canada”

- (2) In this Act, “aboriginal peoples of Canada” includes the Indian, Inuit and Métis peoples of Canada.

Land claims agreements

- (3) For greater certainty, in subsection (1) “treaty rights” includes rights that now exist by way of land claims agreements or may be so acquired.

Aboriginal and treaty rights are guaranteed equally to both sexes

- (4) Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons.